

REMARKS

Consideration of this application in view of the above amendments and following remarks is respectfully requested. Claims 1-14, 16, 19-22, 25-47, 50, 53-56, and 59-81 are now pending. Claim 15 has been canceled. Claims 1, 14, 35, 70, 72 and 73 have been amended. Support for the amendments to claims 1, 35 and 73 can be found in, for example, paragraphs [0067] and [0068] of U.S. Published Application 2004/0235708. The remaining amendments are to correct informalities. No new matter has been introduced by way of the amendments.

Examiner Interview

As an initial matter, the undersigned wishes to thank the Examiner for the courtesy extended in the telephone interview of July 31, 2009. During the telephone interview, the undersigned proposed the amendments presented by way of this Amendment; namely, replacement of the word “polypeptide” with “polylysine.” The Examiner indicated that this change would be received with favor.

In addition, at the Examiner’s request, Applicants hereby make known to the Examiner Applicants’ co-owned U.S. Patent No. 6,534,591 (the ‘591 patent), which issued from the parent application (U.S. Patent Application No. 09/932,536) of the present application. The ‘591 patent is directed to a crosslinkable composition comprising first and second crosslinkable components, which encompass the respective crosslinkable components of, for example, amended claims 1, 14, 35 and 73 the present application. Applicants note that the present application is directed to a method of using a patented composition.¹

Claim Rejections – 35 U.S.C. § 102

Claims 1-16, 19, 20, 25, 29, 31, 35, 36-47, 50, 53, 54, 59, 61, 70 and 72 stand rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, obvious under 35 U.S.C. § 103(a) over, US 5,162,430 (“Rhee”).

¹ The ‘591 patent has been previously disclosed and discussed in Applicants’ responses, filed October 10, 2007 and June 23, 2008.

The basis of the Examiner's rejection is set forth in the Office Action at pages 3-4 and is not repeated herein for the purpose of brevity. Rather, Applicants will address Item 4 of the Office Action, in which the Examiner stated that "synthetic polypeptide is a genus of polypeptides and since the collagen, a polypeptide, has been chemically conjugated to PEG in Rhee, the Collagen-dPEG no longer is a natural polypeptide but meets the limitation of synthetic polypeptide."

Without acquiescing to the Examiner's position and in the interest of facilitating allowance, Applicants have replaced "polypeptide" with "polylysine" in claims 1, 35 and 73. Polylysine is a particular species of synthetic polypeptides, which is to be crosslinked with a second crosslinkable component. This feature is not anticipated or made obvious by Rhee. Rather, Rhee describes a crosslinked/conjugated product of collagen and a polymer (e.g., difunctionalized polyethylene glycol, hereafter "dPEG"). As a crosslinkable component, collagen is not synthetic polypeptide. Once crosslinked, collagen-dPEG is arguably a synthetic polypeptide. However, there is no teaching or suggestion in Rhee that the collagen-dPEG product is to be further crosslinked with a second crosslinkable component. Accordingly, amended claims 1, 35 and 73 are not anticipated or rendered obvious in view of Rhee.

Claim Rejections – 35 U.S.C. § 103

Claims 1-16, 19-22, 25-47, 50, 53-56 and 59-84 stand rejected under 35 U.S.C. § 103(a) as being obvious over Rhee in view of US 5,505,952 ("Jiang").

The Examiner considers that Rhee and Jiang in combination render these claims obvious because Jiang discloses that crosslinked polyamino acid promotes tissue repair and tissue growth.

Applicants have now amended claims 1, 35 and 73 to replace "polypeptide" with "polylysine." These features are not obvious over Rhee and Jiang because Rhee and Jiang do not describe or suggest a synthetic crosslinking system involving two synthetic polymeric crosslinkable components. Rather, Rhee is directed to collagen (a natural polypeptide) and does not teach or suggest polyalkylene oxide having amino or thiol functional groups or synthetic polypeptides (*see*, lines 1-3 on page 4 of the Office Action). Further, Jiang is limited to

crosslinking polyamino acid with small molecules (as opposed to polymers). Accordingly, Applicants submit that claims 1, 35 and 73 (and their respective dependent claims) are not obvious in view of Rhee and Jiang.

Conclusion

In view of the above amendments and remarks, allowance of claims 1-14, 16, 19-22, 25-47, 50, 53-56, and 59-81 is respectfully requested. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at (206) 622-4900 to resolve the same.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
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